

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

ARMSTRONG, Roisin A. et. al.

Examiner: Shobha Kantamneni

Serial No.: 10/715,177

Group Art Unit: 1617

Filed: November 17, 2003

Confirmation No.: 4041

Title: COMBINATION OF A PDE4 INHIBITOR AND TIOTROPIUM OR
DERIVATIVE THEREOF FOR TREATING OBSTRUCTIVE AIRWAYS
AND OTHER INFLAMMATORY DISEASES

RESPONSE TO REQUIREMENT FOR RESTRICTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed March 13, 2007, and the restriction requirement set forth therein, Applicants hereby elect Group I, claims 1-10 and 20-34, drawn to compositions, including in package form. The election is made with traverse for the reasons set forth below. Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter.

The elected Group I is directed to product claims and Group II is directed to methods of treatment using such products. The basis alleged for the restriction is that the process as claimed can be practiced using a materially different product, i.e., salbutamol. Applicants respectfully urge that a process carried out using such materially different product would not be the same or essentially the same as the claimed process. Compounds and compositions have unique activities and properties which define them. Carrying out the method with a distinct compound, i.e., salbutamol, would necessarily result in a materially different process because salbutamol is a materially different compound. Thus, the basis for lack of

distinctness is not proven by this allegation. For restriction between product and method of use claims, the PTO has traditionally only required restriction when the product as claimed can be used in a materially different process. Such has not been alleged or shown here. For these reasons, the restriction requirement should be withdrawn.

Additionally, applicants note the discussion regarding rejoinder in the Office Action. Should a valid basis for restriction be established, applicants urge that the method of use claims here would be subject to rejoinder.

For all of the above reasons, it is urged that the restriction requirement should be withdrawn, in total. Favorable action is earnestly solicited.

No fee is believed to be due with this response, however, the Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/John A. Sopp/
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